

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANTHONY RAY THOMPSON,)	
)	
Plaintiff)	
)	Case No. 1:19-cv-00282 (Erie)
vs.)	
)	
LISA SLATZER & REX HILDEBRAND)	RICHARD A. LANZILLO
)	UNITED STATES MAGISTRATE JUDGE
)	
Defendants.)	Order on ECF Nos. 70, 71
)	

ORDER

Plaintiff's Motion for Default Judgment [ECF No. 70] and "Motion to Compel Motion for Default Judgment" [ECF No. 71] are DENIED.

The Court previously denied Plaintiff's motion for default judgment [ECF No. 11] as moot because the Defendants filed an Answer to the Complaint. ECF No. 16. The Court also previously denied Plaintiff's motion [ECF No. 18] which sought a default judgment because the Defendants purportedly failed to respond to his discovery requests. In fact, Plaintiff was filing his discovery requests as a motion instead of properly serving them on the Defendants who averred that they had received no discovery requests. ECF No. 22. Then, the Court admonished that "Plaintiff is reminded that he must direct his discovery requests directly to the opposing party rather than file them with the Court." *Id.* Plaintiff's Motion for Contempt of Court [ECF No. 23] was denied for the same reasons given in the Court's Order at ECF No. 22 because the Defendants were not in default or delinquent in responding to Plaintiff's discovery requests. ECF No. 24. The Court denied another motion for default judgment [ECF No. 28] because the Defendants had responded to all pending discovery requests. ECF No. 33. The Court also denied Plaintiff's Motion to Compel Compliance with Discovery [ECF No. 35] because the Defendants had either complied with discovery or properly objected to disclosing certain materials. ECF No. 45. Furthermore, the Court

denied Plaintiff's motion for contempt [ECF No. 40] for Defendants' failure to respond to interrogatories because Defendants' partial response to the discovery request was inadvertent. ECF No. 57.

Plaintiff's Motion for Default Judgment [ECF No. 70] and Motion to Compel Motion for Default Judgment [ECF No. 71] are his seventh and eighth motions in this case for default judgment, contempt, or compliance with discovery. He argues the Defendants failed to comply with his request for answers in letters he sent on September 27, October 13, and October 15, 2020. ECF No. 70. The deadline for discovery was October 30, 2020, per the Amended Case Management Order. ECF No. 65. The Court first notes that in a letter sent to counsel for the Defendants on September 17, 2020, Plaintiff said he would "not be pursuing 'additional discovery.'" ECF No. 68 (quotes in original). This letter requested no materials from the Defendants. A letter he sent counsel for the Defendants on October 15, 2020 was a settlement offer, although he did include a "P.S." at the end of the letter which asked why Mrs. Slatzer gave him a five-point misconduct instead of a three point one. ECF No. 69. In any event, informal letters are not an appropriate means to present discovery requests. Further, Plaintiff's motions fail to identify any specific discovery request he has served and concerning which any Defendant has failed to respond.

The Court reminds Plaintiff once again that discovery requests should are not made by "motion" but are to be served upon the appropriate adverse party's counsel. For example, he may serve interrogatories upon the other parties in compliance with Rule 33 of the Federal Rules of Civil Procedure, requests to produce documents or things in compliance with Rule 34, or requests for admissions in compliance with Rule 36, among other things.

Plaintiff's Motion for Default Judgment [ECF No. 70] and Motion to Compel Motion for Default Judgment [ECF No. 71] are DENIED.

Entered and Ordered this 24th day of November, 2020.



RICHARD A. LANZILLO
United States Magistrate Judge